

United States District Court  
Central District of California  
Western Division

MARLENE VASQUEZ, et al.,

Plaintiffs,

v.

DOWNTOWN L.A. MOTORS,  
NISSAN, LP, *et al.*,

Defendants.

CV 16-01194 TJH (AGRx)

Order

JS-6

The Court has considered Plaintiffs' motion for partial summary judgment, together with the moving and opposing papers.

With the voluntary dismissal of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ["FDCPA"], claim asserted against Defendant Statewide Recovery Services, the only remaining claims, here, are state law claims. Despite the representations in the Final Pretrial Conference Order, the presence of a federal issue in a state law claim does not automatically confer federal question jurisdiction. *See Merrell Dow Pharms., Inc. v. Thompson*, 478 U.S. 804, 813 (1986). At every stage of litigation, the Court has an independent obligation to ensure that it does not exceed the scope of its subject matter jurisdiction. *Henderson ex rel. Henderson v. Shinseki*,

1 562 U.S. 428, 434 (2011). Indeed, the Court has an obligation to examine subject  
2 matter jurisdiction even if no party raises it. *Allstate Ins. Co. v. Hughes*, 358 F.3d  
3 1089, 1093 (9th Cir. 2004).

4 A state law claim invokes federal question jurisdiction only if it “necessarily  
5 raise[s] a stated federal issue, actually disputed and substantial, which a federal forum  
6 may entertain without disturbing any congressionally approved balance of federal and  
7 state judicial responsibilities.” *Grable & Sons Metal Prods., Inc. v. Darue Eng’g &*  
8 *Mfg.*, 545 U.S. 308, 314 (2005). Further, federal question jurisdiction does not attach  
9 where federal law is not a necessary element of the state law claim. *Rains v. Criterion*  
10 *Sys., Inc.*, 80 F.3d 339, 346 (9th Cir. 1996).

11 Cal. Civ. Code §1788.17, part of the Rosenthal Act, includes a “borrowing”  
12 provision whereby the Rosenthal Act is violated when, *inter alia*, there is a violation  
13 of the FDCPA. *See Nevada v. Bank of America Corp.*, 672 F.3d 661, 675 (9th Cir.  
14 2012). When there are multiple grounds – under both state law and federal law – to  
15 resolve a state law claim, as is the case with the Rosenthal Act, federal question  
16 jurisdiction does not attach because resolution of federal law is not a necessary element  
17 of the claim. *See Rains*, 80 F.3d 346. In other words, when a federal law is merely  
18 an element of a state law claim, federal jurisdiction does not attach if there are non-  
19 federal ways to satisfy the state law claim, regardless of whether a plaintiff chooses to  
20 use federal law to satisfy the state law claim. *Rains*, 80 F.3d at 345-46 (9th Cir. 1996).

21 When the Ninth Circuit considered a Nevada consumer protection statute with  
22 a “borrowing” provision that triggered liability under the Nevada statute if there was  
23 a violation of the FDCPA – similar to the way the plaintiffs, here, are proceeding under  
24 the Rosenthal Act – it concluded that the “borrowing provision” was merely a “glancing  
25 reference” to federal law that was insufficient to confer federal question jurisdiction.  
26 *Nevada*, 672 F.3d at 675.

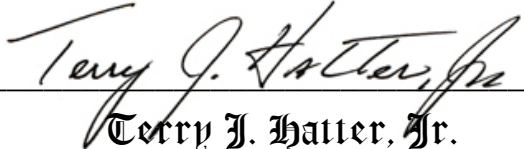
27 Consequently, this Court no longer has federal question jurisdiction over this  
28 action.

1 Pursuant to 28 U.S.C. § 1367(c)(3), the Court has discretion to exercise  
2 supplemental jurisdiction over the remaining state law claims after the claim which  
3 provided federal question jurisdiction was dismissed. *See Foster v. Wilson*, 504 F.3d  
4 1046, 1051-52 (9th Cir. 2007). However, the Court will not exercise supplemental  
5 jurisdiction here. The remaining California state claims are between California parties  
6 – Vasquez and Rosales are both domiciled in California, while Nissan is a California  
7 corporation with its principal place of business in Los Angeles. Further, the exercise  
8 of supplemental jurisdiction over California claims that merely reference a federal  
9 consumer protection statute between California parties would create a “potentially  
10 enormous shift of traditionally state cases into federal courts.” *See Nevada*, 672 F.3d  
11 at 676.

12  
13 Accordingly,

14  
15 **It is Ordered**, *sua sponte*, that this case be, and hereby is, **Dismissed** without  
16 prejudice for lack of subject matter jurisdiction.

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18 Date: July 11, 2017

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21 Terry J. Hatter, Jr.  
22 Senior United States District Judge  
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